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14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA

17 KASSONDRA BAAS and KELLY LOFQUIST,  
individually and on behalf of all others  
18 similarly situated,

19 Plaintiffs,

20 v.

21 DOLLAR TREE STORES, INC.,

22 Defendant.

CASE NO. C 07-03108 JSW

**[PROPOSED] ORDER DENYING  
PLAINTIFFS' MOTION FOR CLASS  
CERTIFICATION**

**DATE:** April 4, 2008  
**TIME:** 9:00 a.m.  
**DEPT.:** Crtrm. 2, 17th Floor  
**JUDGE:** Hon. Jeffrey S. White

**COMPLAINT FILED:** June 13, 2007  
**TRIAL DATE:** No date set.

1           The Motion for Class Certification filed by Plaintiffs Kassondra Baas and  
 2 Kelly Lofquist ("Plaintiffs") and opposed by Defendant Dollar Tree Stores, Inc.'s ("Dollar  
 3 Tree) came on for hearing in the above-entitled action on April 4, 2008, at 9:00 a.m.,  
 4 before this Court, the Honorable Jeffrey S. White presiding. Maureen McClain, Kauff,  
 5 McClain & McGuire LLP, appeared as attorney for Dollar Tree, and Jeremy R. Fietz,  
 6 appeared as attorney for Plaintiffs.

7           After considering the moving and opposition papers, evidence and  
 8 arguments of the parties, and all other matters presented to the Court, class certification  
 9 is denied because plaintiffs cannot satisfy the requirements of Federal Rules of Civil  
 10 Procedure 23(a)(2), (a)(3), (a)(4) and (b)(3). Specifically, commonality is lacking  
 11 because Plaintiffs can point to no common fact to support their allegation that Dollar  
 12 Tree improperly altered time clock records to reduce overall payroll on a state-wide  
 13 basis. See *Castle v. Wells Fargo Financial, Inc.*, 2008 WL 495705 (N.D. Cal. Feb. 20,  
 14 2008). Nor are Plaintiffs' claims typical of the class. Both Plaintiffs experienced time  
 15 adjustments well in excess of that experienced by a typical employee. See *Crandall*  
 16 *Decl.* at ¶¶ 17-22.

17           In addition, Rule 23(a)(4) the Plaintiffs do not fairly and adequately protect  
 18 the interests of the putative class. See *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1020  
 19 (9th Cir. 1998). Since Plaintiffs and other Assistant Managers were charged with the  
 20 responsibility of ensuring the accuracy of subordinate hourly employees' time records,  
 21 they cannot adequately represent a combined class of all hourly employees.

22           Finally, Plaintiffs have not established the requirements Rule 23(b). Rule  
 23 23(b)(1)(A) authorizes class actions to eliminate the possibility of adjudications in which  
 24 the defendant will be required to follow inconsistent courses of continuing conduct. This  
 25 danger exists in those situations in which the defendant by reason of the legal relations  
 26 involved can not, as a practical matter, pursue two different courses of conduct. There is  
 27 no such danger here. Nor is this a case where common issues predominate. *Local*  
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1 *Joint Executive Bd. of Culinary/Bartender Trust Fund v. Las Vegas Sands, Inc.*, 244 F.3d  
2 1152, 1162 (9th Cir. 2001).

3 **IT IS HEREBY ORDERED THAT** Plaintiffs' Motion to for Class Certification  
4 **is DENIED.**

5 DATED: \_\_\_\_\_  
6

7 \_\_\_\_\_  
8 HONORABLE JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE

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